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BEYOND WELFARE REFORM: CAN WE BUILD A LOCAL WELFARE STATE?

Frank Munger*

I. INTRODUCTION

In the twenty-first century, privatization of the American welfare state continues. Provision of welfare for workers and poor is increasingly left to the discretion of employers or charities. Reliance on public or private welfare by those who cannot make ends meet has always been stigmatized as dependency. Now, dependency is the point of attack on the poor and workers alike. Welfare for the poor has been severely restricted, and the number of impoverished, mother-only families aided by public benefits has been cut in half. Similarly, increasing restrictions are placed on private pensions, health insurance, workers compensation, unemployment compensation, and even bankruptcy relief from overburdening debt.¹ The “dependent” poor and the low-wage labor force are increasingly denied social citizenship, immigrants in their own society.

Advocates for the poor have long attempted to influence national policy deliberations. They urge greater collective economic security, making the case for civil rights for both the poor and others excluded from a full life by circumstances beyond their control. Entitlements they have won for the poor mark the boundary of full social citizenship. But advocates for the poor are now losing most battles for welfare rights and

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1. See, MICHAEL B. KATZ, *THE PRICE OF CITIZENSHIP: REDEFINING THE AMERICAN WELFARE STATE* (2001). See generally Jean Braucher, *Consumer Bankruptcy as Part of the Social Safety Net: Fresh Start or Treadmill?*, 44 SANTA CLARA L. REV. 1065 (2004); Deborah Maranville, *Unemployment Insurance Meets Globalization and the Modern Workforce*, 44 SANTA CLARA L. REV. 1129 (2004).

economic redistribution at the national level. Today, proposals for expanding rights for the poor, disabled, minorities, women, and immigrants meet stiff resistance. As a result, new proposals are less broad and less numerous. Equal welfare for all members of our society—national health care, adequate pensions, unemployment for all the unemployed, a minimum wage corresponding to the minimum cost of living, and a living wage for care work as well as market work—is disfavored. The notion of equal welfare indeed seems unthinkable in an era when the welfare state is under attack and nearly all forms of welfare are being rolled back or indexed to wealth.²

The cutting edge in welfare advocacy, many activists seem to argue, is not advocacy for rights and redistribution at the national level, but rather advocacy within communities. Activism from below continues to keep a long tradition of mutual assistance, community economic development, and other experiments in economic democracy alive. Now the focus is on opportunities to create progressive forms of welfare through local organizing and co-optation of private and public authority at the local level.

Projects to build local welfare institutions have produced some notable successes. However, the small numbers of successful projects and the limited scope of those projects raise important questions about whether local political alliances seeking redistributive public and private welfare can succeed as a wider strategy for building a more inclusive welfare state. As advocates and scholars seek a better definition of the local-state welfare project, they must define both its goals and preconditions, and they must identify means of achieving the improbable—inclusion of the poorest, least stably employed, lowest paid working poor.

2. Poor, working class, and middle income persons (especially middle income home owners), those with enough wealth to invest, and corporations all receive different packages of welfare benefits from the government in the form of income supplements, tax breaks, or other subsidies. The largest of these benefits, including the home mortgage tax exclusion and special tax breaks and subsidies for corporations, together with the skewed tax reductions of the past several years, insure that the distribution of welfare favors those with wealth even while expenditures for the very poor are reduced. *See, e.g.,* KEVIN PHILLIPS, *WEALTH AND DEMOCRACY: A POLITICAL HISTORY OF THE AMERICAN RICH* (2001); *see also* WILLIAM GALE ET AL., CENTER FOR BUDGET & POLICY PRIORITIES, *THE ULTIMATE BURDEN OF THE TAX CUTS* (June 2, 2004), *available at* <http://www.cbpp.org/6-2-04tax.htm>.

In this brief comment, I focus on recipients of traditional welfare—poor single mothers—and their needs. I describe the failure of welfare reform, together with some of the lessons we have ignored but could learn from successful welfare experiments about how and why welfare should be provided. I conclude with a brief and preliminary analysis of some of the political and conceptual issues that advocates face in sustaining political alliances at the community level. I draw on a growing literature describing strategies for deepening democracy in communities. Importantly, this analysis illustrates how emerging strategies for democratic experimentalism and deepened community democracy depend on national poverty advocacy that uses the rhetoric of the market and devolution to provide benchmarks, mandates, and local authority for administration of redistributive policies.

II. WELFARE

A. Welfare Reform: Watching as Caring

Anglo-American relief for the poor reflects underlying moral judgments about dependency. Those who are unable to attain self-sufficiency through market labor, and not excused by disability or age are morally stigmatized as “undeserving” poor.³ Since Elizabethan times,⁴ welfare for the poor has been administered under conditions designed to drive all but the most desperate into the labor market—a corrective for their moral weakness and stern example to others.

Once again, welfare reform has “cured” dependency by pressuring recipients to leave welfare for work—any work. Contemporary welfare reform politics has reinforced the identity of “undeserving” poor. Professor Sanford Schram argues that the current welfare reformers have succeeded in creating a “medicalized” identity for welfare recipients as individuals who suffer from the “disease” of dependency.⁵ The prescription for this disease is tough administration of work and child-bearing requirements for those who seek welfare.⁶ As

3. See generally JOEL HANDLER & YEHESKEL HASENFELD, *WE THE POOR PEOPLE: WORK, POVERTY & WELFARE* (1997).

4. See *id.* at 21.

5. See SANFORD SCHRAM, *AFTER WELFARE: THE CULTURE OF POSTINDUSTRIAL SOCIAL POLICY* 59-71 (2000).

6. See *id.* at 63-70.

Lawrence Mead has said, the discipline imposed by strict administration of welfare *is* the reform.⁷ After 1996, entitlements are fewer, obligations are more numerous, and recipients are continuously supervised and micromanaged.⁸ Denying aid to all but the most severely disadvantaged seems to confirm the claim that welfare recipients are those who have become helplessly dependent. Conversely, the vast number who left welfare (many, if not most, for violating any of numerous bureaucratic rules) seems to confirm that most should not have received public benefits in the first place.

In contemporary welfare politics, thinly veiled class interests contend. From its inception, the American welfare state keyed social citizenship to individual qualifications, primarily work history and earnings—both determined by employers.⁹ Welfare reforms have arrayed pro-market, pro-business advocates who favor a low-wage, flexible, and docile work force against advocates for the economically insecure, favoring pooled risk and greater economic opportunity that would permit individuals to enter the labor market on their own terms. The ideology of the market dominates, and both major political parties support flexible labor policies, reduced government welfare, and “marketized citizenship” linking adequate welfare benefits even more tightly to success in the labor market. Provision of welfare for workers and poor is increasingly left to the discretion of employers or charities. While the scope and benefit levels of social citizenship have been continuously contested,¹⁰ the structure of the American

7. See *id.* at 71.

8. Matthew Diller, *The Revolution in Welfare Administration: Rules, Discretion, and Entrepreneurial Government*, 75 N.Y.U. L. REV. 1121 1145-72 (2000).

9. See generally JENNIFER KLEIN, FOR ALL THESE RIGHTS: BUSINESS, LABOR, AND THE SHAPING OF AMERICA'S PUBLIC-PRIVATE WELFARE STATE (2003).

10. See JOEL HANDLER & YEHESEKEL HASENFELD, THE MORAL CONSTRUCTION OF POVERTY: WELFARE REFORM IN AMERICA 82-132 (1991). The poor who are deemed undeserving and the stereotypes associated with them have changed over time but the meaning is always the same—dependency is an individual failing and a moral hazard of welfare. *Id.* at 82-85. The modern history of American welfare reflects political struggle about the categorization of particular groups. *Id.* Since the New Deal elderly workers have come to be perceived as deserving, while white widows were deserving of carefully administered aid and distinguished from both immigrant poor and persons of color who received little aid. *Id.* at 105. Since the 1960s, another shift in perceptions has associated welfare dependency with young unmarried African American moth-

welfare state has remained essentially unchanged: disciplinary welfare for the poor and welfare capitalism for the rest.¹¹

B. Leaving Welfare, Even Poorer

The purported evidence of welfare reform's "success" is the 53% decline in welfare caseloads between 1996 and June 2000.¹² Underlying the claim is an assumption that reform has enabled welfare "leavers" to enter employment and, within a short period, achieve self sufficiency.¹³ These assumptions about the reasons for leaving welfare and the benefits of employment among former recipients are mistaken. At the height of labor market growth, in the late 1990s and before the recession, more than 17% of the full time prime age labor force in the United States earned less than the poverty level.¹⁴ For women, the percentage was

ers and a shiftless population of African American males who father their children. *Id.* at 114.

11. See generally KLEIN, *supra* note 9.

12. See Sanford Schram & Joe Soss, *Success Stories: Welfare Reform, Policy Discourse, and the Politics of Research*, in *PRAXIS FOR THE POOR: PIVEN AND CLOWARD AND THE FUTURE OF SOCIAL SCIENCE IN SOCIAL WELFARE* 195 (Sanford Schram ed., 2002).

13. Reformers have sometimes said that employment will lift these leavers out of poverty, but ending poverty was not among the legislative purposes included in TANF, the 1996 welfare reform legislation. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1601 (2004); see also Ron Haskins, *Effects of Welfare Reform on Family Income and Poverty*, in *THE NEW WORLD OF WELFARE* 119-20 (Rebecca Blank & Ron Haskins eds., 2001).

14. Year round attachment to the labor force means that an individual is working or looking for work fifty weeks a year. See LAWRENCE MISHLE ET AL., *THE STATE OF WORKING AMERICA 2001-2002*, at 322 (2001). Based on the Department of Labor's poverty measure, more than 34 million Americans live below the poverty line, and over 14 million have incomes less than half the poverty line. See ROBERT GREENSTEIN ET AL., *CENTER FOR BUDGET & POLICY PRIORITIES, POVERTY INCREASES AND MEDIAN INCOMES DECLINE FOR THE SECOND CONSECUTIVE YEAR* (Sept. 23, 2003), at <http://www.cbpp.org/9-26-03pov-fact.htm>. Tragically, the poor are getting poorer. The number deemed poor would vastly increase using the poverty standard accepted in many other economically developed societies. For a discussion of alternative measures of poverty and the general acceptance among European governments of a higher threshold, see Katherine McFate et al., *Markets and States: Poverty Trends and Transfer System Effectiveness in the 1980s*, in *POVERTY, INEQUALITY AND THE FUTURE OF SOCIAL POLICY: WESTERN STATES IN THE NEW WORLD ORDER* 30 (Katherine McFate et al. eds., 1995). Measured by the U.S. poverty standard, the poverty rate is rising and three million more Americans are poorer now than they were in 2000. *Id.* The poverty gap is also rising—the gap between the average poor person's income and the official poverty line. *Id.*

much higher—nearly one quarter of all women with full time labor force attachment did not earn enough to raise them above the poverty line.¹⁵ For these Americans, work is insecure, without affordable health care or other benefits, and requires great flexibility in scheduling family commitments. This is the labor market that poor women leaving welfare have entered, and the labor market in which most will remain.¹⁶

In spite of low wages and lousy jobs, women always left welfare for work rather quickly. Under the prior welfare program, Aid to Families with Dependent Children, more than 50% of all recipients left within one year.¹⁷ Thus, early departures from welfare have been the historical norm, not the exception.

What explains recently declining welfare caseloads? Research by economists has concluded that the strong economy and increases in the Earned Income Tax Credit have been the most important factors that explain any increase in work. It is possible that much of the decline has little to do with increasing employment among poor women, and is likely due to aggressive diversion programs that discourage new applications for welfare. Further, there is evidence that the administration of sanctions for violating bureaucratic regulations may account for up to 40% of welfare exits in some states.¹⁸ The latest studies by the Urban Institute show that only 42% of recent leavers are working (compared to 49% in 1999), and more than one quarter quickly returned to the TANF program.¹⁹

15. See MISHEL, *supra* note 14, at 322.

16. See generally Dorothy Roberts, *Welfare Reform and Economic Freedom: Low-Income Mothers' Decisions About Work at Home in the Market*, 44 SANTA CLARA L. REV. 1029 (2004).

17. HANDLER & HASENFELD, *supra* note 3, at 46.

18. See Schram & Soss, *supra* note 12, at 197.

19. See PAMELA LOPREST, URBAN INST., HOW ARE FAMILIES THAT LEFT WELFARE DOING? A COMPARISON OF EARLY AND RECENT WELFARE LEAVERS (2001) [hereinafter LOPREST, COMPARISON OF WELFARE LEAVERS], at <http://www.urban.org/template.cfm?Template=/TaggedContent/ViewPublication.cfm&PublicationID=7249&NavMenuID=95>; see also PAMELA LOPREST, URBAN INST., FEWER WELFARE LEAVERS EMPLOYED IN A WEAK ECONOMY (2003), at <http://www.urban.org/urlprint.cfm?ID=8550>. About 4% were surviving on other government programs such as SSI, and 7.6% had a working family member who supported them. LOPREST, COMPARISON OF WELFARE LEAVERS, *supra*. More than 20% had no current source of income (although about one third of these had worked recently). *Id.*

Most leavers who work are still very poor. In 1998—in a strong economy—leavers' earnings ranged from \$665 to \$1083 per month, well below the poverty threshold for a family of three set at \$1095 per month.²⁰ One third reported cutting meal sizes and skipping meals, and more than one third were unable to pay rent or utilities on a regular basis (46% in 1999).²¹ How could such families afford health care, child care, transportation to work, and other costs associated with employment? How many have had to return to violent partners?²² To help meet some of the costs, welfare reform provided funding for transitional Medicaid and child care.²³ Yet the Urban Institute reported that most leavers were not actually receiving Medicaid, child care assistance, or food stamps.²⁴

The critical point is that we know how to create a better welfare state without massive redistribution. TANF's "work first" emphasis was based loosely on early welfare-to-work experiments that pushed a few more women to leave welfare, but which also showed that improvements in well-being would be small at best and short lived.²⁵ Those experimental findings were not wrong. We also have findings from other experiments that succeeded in providing assistance to poor families in ways that TANF has failed.²⁶

C. Flexibility and Choice: Lessons from the Other Welfare Experiments

Experiments with alternative forms of welfare provision have demonstrated that family welfare can be improved, employability enhanced, and poverty reduced by taking a differ-

20. See Schram & Soss, *supra* note 12, at 197.

21. See *id.*

22. The NOW Legal Defense and Education Fund estimates that 30% of current TANF recipients experience domestic violence and up to 60% have suffered violence at some point. See NOW LEGAL DEFENSE AND EDUCATION FUND, WELFARE REAUTHORIZATION: DOMESTIC AND SEXUAL VIOLENCE (2001), at <http://www.nowldef.org/html/issues/wel/violence.shtml>.

23. See Child Care & Development Block Grant, 42 U.S.C. § 9858 (1990) as amended by Pub.L. 104-193 (1996), Title VI § 603(a). Transitional Medicaid benefits are mandated by TANF. See 42 U.S.C. § 608(s)(11)(A) (2004).

24. Fifty-three percent of leavers were not receiving Medicaid, 81% did not receive child care assistance, 85% did not receive help finding a job, and 69% did not even receive food stamps. See Schram & Soss, *supra* note 12, at 199.

25. See HANDLER & HASENFELD, *supra* note 10, at 67.

26. See *id.* at 216.

ent approach. Such experiments point to a key element of success: enabling poor women to manage their own lives so that they can choose and pursue a good or better quality life for themselves and their families.

The first lesson from welfare experiments is that it is the labor market that has failed to provide jobs with living wages and benefits, or enough jobs of any description for which the poor, unemployed, and those currently discouraged from looking for work are eligible. Leading scholars Joel Handler and Yeheskel Hasenfeld have concluded that the vast majority of welfare recipients have been ready, willing, and able to work, and that they would leave welfare if a job enabled them and their families to survive.²⁷ Evaluation of welfare-to-work experiments conducted during the 1980s and 1990s revealed an alternative to the relatively cheap “work first” strategy that became the model for welfare reform. A few states provided access to a wide range of services, extending over long periods of time. Not surprising, these programs were more successful at moving recipients into better jobs and at moving some hard-to-employ recipients into work.²⁸ Although these programs have contributed greatly to our understanding that poor women will voluntarily seek the services they need to help them become more self-sufficient and to become employable, the programs are more costly. After reviewing prior welfare-to-work experiments, Handler and Hasenfeld conclude that “the most fundamental reason why welfare-to-work programs fail is that they are seldom truly intended to respond to the needs of welfare recipients.”²⁹

More recent experiments, some supported by private funding, show that the right kind of assistance can make a sustainable difference. For example, the New Hope experiment offered 1300 randomly selected poor families in Milwaukee, Wisconsin a flexible package of benefits that included a wage supplement, Medicaid, center-based and after-school child care, and intensive counseling and support.³⁰

27. *See id.* at 82-132.

28. *See id.* at 74.

29. *Id.* at 91.

30. *See* ALETHA C. HUSTON ET AL., MANPOWER DEV. RES. CORP., NEW HOPE FOR FAMILIES AND CHILDREN: FIVE-YEAR RESULTS OF A PROGRAM TO REDUCE POVERTY AND REFORM WELFARE, at www.mdrc.org (2003) (last visited Sept. 30, 2003).

Participants were required to work a minimum of thirty hours a week, and employment was guaranteed by the project,³¹ which supplied community service jobs when no other work was available. One of the project's critical limitations was the mandatory link between benefits and work commitment, but for working participants the benefits were flexible and relatively generous. The project lifted many families out of poverty, and encouraged more work at higher wages.³² The most striking finding was that the children benefited educationally and socially from stable, quality day care and a more stable home environment.³³ Important qualities distinguish this experiment from TANF, including respect for choices made by the families concerning work, child care, and the package of supporting services. The program itself emphasized flexibility, stability, empathetic counseling, and ending poverty. New Hope findings have been confirmed by in-depth research by other scholars who underscore the importance of flexible employment as well as stable, parent-chosen quality day care.³⁴

The New Hope experiment is not the future, but it points the way. Follow-up analysis by the Joint Center for Poverty Research suggested that the results of New Hope could be vastly improved by providing specialized services for the women who were unable to take advantage of New Hope's benefits. Some women lacked proper information. Others needed services related to mental health problems, substance abuse, or domestic violence and other sources of family instability.³⁵ Most importantly, evaluators suggested that flexibility was a key to success.³⁶ They recommended, for example, improving outcomes by separating the benefits offered by future programs from work requirements, to support parents' preferences for more flexible employment and care work

31. *See id.*

32. *See id.*

33. *See id.*

34. *See* Julia Henly & Susan Lambert, *Linking Workplace Practices to Child Care Requirements: Lower-Level Workers in Lower-Skilled Jobs*, in *WORKFORCE/WORKPLACE MISMATCH? WORK, FAMILY, HEALTH, & WELL-BEING* (Suzanne Bianchi et al., eds., 2003), at <http://www.popcenter.umd.edu/conferences/nichd/papers/henly.pdf>.

35. *See* Thomas S. Weisner et al., *Understanding Working Poor Families in the New Hope Program*, 6 *POV. RES. NEWS* 3 (2002).

36. *See id.*

scheduling.³⁷ Further, a follow-up evaluation after five years showed that the benefits of flexibility and choice have been sustained, particularly for the children of these families.³⁸

The failure of 1996 welfare reform to end poverty and the relative success of experimental alternatives has clear implications. Poverty can be reduced by providing the following resources, available to many with incomes above the median, but unavailable to a large proportion of those who earn less, and almost universally absent among those who work and earn less than the poverty level: (1) decent work, including adequate income, stability, and flexibility to accommodate family and personal needs, (2) flexible day care accommodating parents' scheduling and values and which supports early learning and social development, (3) health insurance, (4) stable housing (not a part of the Milwaukee experiment but the participants mostly lived in housing with which they were satisfied), (5) empathetic counseling—strongly endorsed by the New Hope participants who received counseling on financial matters, family problems, personal health including mental health problems, community resources, and which provided emotional support.

There are few surprises here. The effects of more flexible and generous support for employment and care work are easy to see in New Hope's measures of parent success and especially child well-being. The annual per family cost of the New Hope experiment was a modest \$5300.³⁹ Although the cost of New Hope's services was relatively modest, these welfare experiments show that adequate welfare will require a greater investment of resources.

The critical question is how can the lessons from these experiments be applied in an era when new programs requiring redistribution at the national level are very unlikely to be enacted?

D. Redefining Welfare

Welfare reform in the 1990s was captured by the symbolic politics of dependency. If welfare were freed from its association with false assumptions about the causes of poverty

37. *See id.*

38. *See* HUSTON ET AL., *supra* note 30.

39. Some, but not all families also received benefits under Wisconsin's W2 welfare reform program and federal benefits. *See id.*

and stereotypes of poor mothers, what should advocates seek in order to help poor families and lift them out of poverty? Of course, welfare cannot be separated from the symbolic politics of the welfare state, and that problem raises the question of political strategy that I will discuss in the last section.⁴⁰

Nobel prize-winning economist Amartya Sen has suggested that extreme economic inequality is a social condition brought about by society's failure to create individual capability.⁴¹ Inequality, in this view, arises from conditions that restrict development of an individual's capabilities. Conditions that limit material resources literally render one poor, but they are not the only, or perhaps even the most important, societal failure that undermines well-being and hope for improvement. Adequate education, health care, and social support are equally critical. A true definition of poverty, he argues, is the failure to develop capability to participate in society and to thrive.⁴² Thus, as he has noted, materially poor Bangladeshi may thrive relative to some materially better off urban African American teens, who have a much shorter life expectancy.⁴³

Sen's arguments are greatly illuminated by Professor Lynne Haney's study of welfare for poor women under successive political regimes in Hungary.⁴⁴ The government of socialist Hungary intruded deeply into work, family, and all other areas of social life,⁴⁵ creating opportunities for women to invoke the state to support their demands for flexibility and accommodation in each institutional sphere, permitting them to choose how to thrive.⁴⁶ Under the liberal regime instituted after the fall of socialist government, welfare was restricted, forcing women to make accommodations in the private sphere through family networks or the labor market. The net effects on women under the two regimes were dramatically different. Under the first regime, women gained capacity to maneuver effectively in order to increase their welfare. Under the last regime, women's freedom to maneuver was severely limited

40. *See infra* Part IV.

41. AMARTYA SEN, *INEQUALITY REEXAMINED* 108-09 (1992).

42. *See id.*

43. *See id.*

44. LYNNE HANEY, *INVENTING THE NEEDY: GENDER AND THE POLITICS OF WELFARE IN HUNGARY* 242-44 (2002).

45. *See id.*

46. *Id.*

by their lack of capacity. Consequently, families experienced far greater difficulties. She calls the quality that these institutions enhanced *maneuverability*. Maneuverability is promoted, Haney argues, when governments hold major institutions accountable for women's welfare rather than striving to fix or improve the woman.⁴⁷

Maneuverability is increased by the availability of flexible jobs, supportive work places, family resilience, housing options, continuing medical benefits, retirement security, and other essential components of individual autonomy. A core component of this goal is accommodation of flexible careers that include periods of care work and voluntary unemployment to pursue education or other forms of human capital growth without the destructive side-effects that characterize liberal welfare regimes—insecurity and even destitution.

American welfare experiments confirm the superiority of voluntary and flexible programs of support over longer periods of time, enabling the poor to choose the combination of decent work, parenting, and education that will enable them to develop the capacities needed for a better life. As New Hope demonstrated, enabling individuals to take initiative and to make choices increases their productivity and family well-being, benefits that extend to subsequent generations.

Development of capabilities relates to the provision of welfare in another important way, namely treating the poor as citizens rather than patients. The social relations theory of welfare rights advanced by Professor Martha Minow makes this point.⁴⁸ In the early years of welfare administration, the task of addressing the need for social support for the poor fell to the Progressive Era social worker. The social worker/reformer combined professional knowledge with empathy and direct knowledge of the poor. Minow argues that the social worker's ability to help came from the clients themselves—from knowledge that they alone possessed and provided to the professionals who helped them.⁴⁹ That knowledge included the precise nature of their needs and of the capacities that could be enhanced to enable them to participate fully in the life of the community. Of course, bringing

47. *Id.*

48. MARTHA MINOW, MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW 110-14 (1990).

49. *See id.* at 245-47.

the poor into decision making about how to provide welfare has far reaching implications. Respecting their knowledge requires establishing their political voice and their political citizenship. In sum, the social relations theory says that social citizenship for the poor and other socially marginal groups will follow from political inclusion.

As knowledge of the causes and effects of poverty deepens, poverty advocates acknowledge that there is a need for developmental welfare to assist individuals to participate more effectively in decisions affecting them—therapeutic assistance that increases capabilities of individuals inured to lives constrained by institutional failure.⁵⁰ Many individuals need and seek help in leading more productive lives.⁵¹

The contradiction between autonomy and need lies at the heart of all welfare state programs. Full social citizenship presumes symbolic, but not actual, self-sufficiency. All members of society—especially those fully employed—require considerable social support. This contradiction also besets the advocacy of community welfare advocates who embrace simultaneously two apparently opposed understandings of autonomy of the poor: freedom from paternalism based on class, gender, and race and intervention to help individuals overcome personal inability to bring about change. Creating a differently structured context is the key. Restructuring the context of poverty to alter the behavior of the poor sounds like the panopticon, the repressive prison created to discipline and morally reform deviants, described by Michel Foucault.⁵² Autonomy should mean creating an inclusive community that provides the right kind of support in the right way to increase individual capacity. Distinguishing between repressive and therapeutic interventions will ultimately depend, as Minow argues, on democratic accountability of welfare programs to those who benefit from them.⁵³

50. See Joel F. Handler, *Quiescence: The Scylla and Charibdis of Empowerment*, in *LABORING BELOW THE LINE: THE NEW ETHNOGRAPHY OF POVERTY, LOW-WAGE WORK, AND SURVIVAL IN THE GLOBAL ECONOMY* 271 (Frank Munger ed., 2002) [hereinafter *LABORING BELOW THE LINE*].

51. See WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996); Lucie White, *Care at Work*, in *LABORING BELOW THE LINE*, *supra* note 50, at 213.

52. See MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan trans., Vintage Books 2d ed. 1995) (1977).

53. See MINOW, *supra* note 48, at 114.

III. COMMUNITY-BASED ACTIVISM

Activists, organizers, and scholars who have become advocates for those who are increasingly vulnerable in the new economy have focused on community-based alternatives to federal welfare programs. They have devoted increasing attention and energy to local coalition building and political activism resources to build a local welfare state. The strategy is vitally important, and builds on roots stretching back to the New Deal, the Progressive Era, and even earlier to working class cooperative movements.⁵⁴ Yet there have been trenchant critiques of this movement when it comes to serving the poorest community members, and even some of its ardent proponents acknowledge the difficult challenges faced by efforts to rebuild a stronger welfare state at the local level.⁵⁵

Community-based projects to enhance the welfare state's safety net for the poor have taken three overlapping forms: (1) organizing to exploit the market power of the poor, (2) extending the state's resources through privatization, and (3) creating a local, more egalitarian welfare state.

A. Utilizing Underdeveloped Market Power

First, some community-based projects exploit the market power of poor communities to provide what the public safety net and the job markets do not offer to individuals—better wages, needed benefits, and greater security. Examples include many successful traditional community economic development corporations and worker cooperatives.⁵⁶ The projects extend a long tradition of organizing on behalf of those at the economic margins, but as William Simon observes in his examination of the community economic development movement, grassroots organizing has flourished for the past twenty-five years since conservatives targeted further growth in the welfare state and began to dismantle existing pro-

54. See KLEIN, *supra* note 9, at 116. See generally William Forbath, *Constitutional Welfare Rights: A History, Critique, and Reconstruction*, 69 FORD. L. REV. 1821 (2001); MINOW, *supra* note 48, at 247-57.

55. See WILLIAM SIMON, *THE COMMUNITY ECONOMIC DEVELOPMENT MOVEMENT: LAW, BUSINESS, AND THE NEW SOCIAL POLICY* (2002).

56. See generally Scott L. Cummings, *Developing Cooperatives as a Job Creation Strategy for Low-Income Workers*, 25 N.Y.U. REV. L. & SOC. CHANGE 181 (1999) [hereinafter Cummings, *Developing Cooperatives*].

grams.⁵⁷ While successful projects often organize the better-off and most employable working poor, a growing number of worker cooperatives and mutual assistance projects have been attempted on behalf of the very poor and former welfare recipients.⁵⁸ Some cooperatives organized among the poorest members of communities have been successful, but they often struggle for stability.⁵⁹

Among the most successful examples of self-help organizing among marginal and vulnerable members of a community is Make the Road by Walking, an organization of immigrant day-laborers on Long Island, New York.⁶⁰ The organization's Workplace Project strove to establish fair treatment of day workers, one aspect of the organization's broader mission of meeting the needs of low-wage and often undocumented workers who are exploited by local businesses and homeowners.⁶¹ By leveraging the growing need for low-wage labor in Long Island's affluent communities, the Workplace Project was able to gain community support for the workers' goals and to obtain passage of state legislation that protected the workers' right to wages.⁶²

A second successful example is a standout among the

57. SIMON, *supra* note 55, at 17-40. See generally PAUL OSTERMAN, *SECURING PROSPERITY: THE AMERICAN LABOR MARKET: HOW IT HAS CHANGED AND WHAT TO DO ABOUT IT* (1999).

58. For example, Working Partnerships, USA has created an ambitious project to provide job and benefit continuity for both low-wage and highly paid temporary workers in California's Silicon Valley. Established as a "high-road temporary staffing firm," the Working Partnerships Membership Association guarantees access to health benefits, provides training, and operates well-supported job placement services. Established by the South Bay Labor Council, Working Partnerships draws on the resources of its members, but also benefits from additional support from labor unions and large foundations, such as Ford, Hewlett, and the Campaign for Human Development. See WORKING PARTNERSHIP MEMBERSHIP ASS'N, WHO WE ARE, at <http://www.wpmembers.org/who/index/php> (last visited Sept. 9, 2003); see also the advocacy group list provided by the Linc Project, at <http://www.lincproject.org/> (last visited June 9, 2004).

59. Steven Greenhouse, *Heath Aides Who Get Sick Days?*, N.Y. TIMES, Feb. 14, 2004, at B1; see also Cooperative Home Care Associates, at <http://www.winwinpartner.com/SmMedSizedBusinesses/smCooperativeAssoc.html> (last visited May 31, 2004).

60. See <http://www.maketheroad.org/> (last visited May 31, 2004).

61. See *id.*

62. See Jennifer Gordon, Symposium, *Economic Justice in America's Cities: Visions and Revisions of a Moment: We Make the Road by Walking: Immigrant Workers, The Workplace Project, and the Struggle for Social Change*, 30 HARV. C.R.-C.L. L. REV. 407 (1995).

growing number of health care worker cooperatives employing many former welfare recipients.⁶³ Cooperative Home Health Care Associates in Bronx, New York is owned by its 780 employees and provides wages and benefits that exceed those of similar companies, including a guaranteed work week and educational benefits.⁶⁴ Employees own shares in the company and elect eight of its twelve board members. These factors contribute to their willingness to forego salary and benefit increases for substantial periods of time to insure the cooperative's fiscal soundness.

B. Privatization of Welfare

A second strategy for extending welfare at the local level has been to encourage public/private partnerships. Privatization has become one of the pillars of new conservatism,⁶⁵ and the Bush administration has aggressively promoted private participation in public welfare.⁶⁶ Proposals for managed medical care to replace Medicaid entitlements, private social security accounts to replace entitlement to fixed retirement benefits, contracted-out welfare services and administration to replace the work formerly done by government employees promise to harness the power of the private market to meet needs while keeping costs at an efficient level. Of course, such proposals mean that the intended beneficiaries will bear the risk of an underperforming market due to market declines, unresponsiveness to consumer preferences, or outright corruption—all the factors that have always disadvantaged poor consumers in particular.

Welfare reform has stimulated expansion of an already vibrant grassroots and nonprofit scene as existing providers have responded to opportunities to expand their role. In ad-

63. Home health care aide is among the few low-wage occupations for which there has been a steady or growing demand in many parts of the country. U.S. DEPT OF LAB., EMP. & TRAINING ADMIN., HEALTH CARE: INDUSTRY SNAPSHOT—GROWTH PATTERN, at <http://www.doleta.gov/BRG/IndProf/HealthProfile.cdm> (last visited June 10, 2004).

64. See Cooperative Home Care Associates, *supra* note 59.

65. MICHAEL KATZ, THE PRICE OF CITIZENSHIP: REDEFINING THE AMERICAN WELFARE STATE 28-29 (2001).

66. See Press Release, President Emphasizes Need for Welfare Reform (July 2, 2002), at <http://www.whitehouse.gov/news/releases/2002/07/20020702-2.html>; see also *President's Compassion Agenda*, available at <http://www.whitehouse.gov/infocus/compassionate/> (last visited Apr. 14, 2004).

dition, a host of first-timers—new for-profit corporations, converted government contractors, as well as newly-minted not-for-profits—have rushed to respond. Many now benefit from large contracts with local welfare administrators anxious to expand their capacity to manage the demands of welfare-to-work.⁶⁷

Many advocates for the poor view the privatization of welfare with skepticism.⁶⁸ Some of the skepticism grows from the fact that services previously provided by public employees are being contracted out to private organizations with little provision for accountability.⁶⁹ Unlike public administrators to whom public accountability laws apply, the commitment of a private provider to the public goals of welfare is limited to its contract performance and, in many cases, will quite legitimately be influenced by external market pressures. Particularly sharp criticism has been directed at the Bush administration's promotion of "charitable choice," which emphasizes giving an important role to faith-based providers.⁷⁰ To opponents, trusting faith-based providers to extend the state's capacity to provide a safety net seems to risk undermining constitutional protection for a woman's right to choose, which some faith-based organizations oppose, and discrimination against service recipients who do not conform to the life-style

67. See BILL BERKOWITZ, APPLIED RESEARCH CENTER, PROSPECTING AMONG THE POOR: WELFARE PRIVATIZATION (2001), at <http://www.arc.org/welfare/prospecting.html> (last visited Apr. 14, 2004).

68. The outcry is ironic in one sense because the American welfare state always had a large private component in the form of state-encouraged employer pension and health care, as well as employer financed workers compensation and unemployment compensation. Contemporary emphasis on devolution has further privatized core public welfare functions such as welfare-to-work programs and, in some states, even public assistance administration. Public welfare administration has always extended the reach of state programs by incorporating the motivation and resources of charitable organizations into public institutions. Charitable organizations have long been encouraged to supplement the strictly public parts of our welfare state through large amounts of governmental funding. See KATZ, *supra* note 65, at 137.

69. See generally Diller, *supra* note 8.

70. Charitable choice is embodied in the Bush administration's endorsement of faith based and community initiatives. See <http://www.whitehouse.gov/government/fbci/index.html>. Some mainstream news reports have been skeptical. See *God and Government*, NOW WITH BILL MOYERS, Sept. 26, 2003, available at <http://www.pbs.org/now/politics/churchandstate2.html>; see also Ori Nir, *Groups Seek to Monitor Faith-Based Initiatives*, FORWARD, Jan. 30, 2004, available at <http://www.forward.com/issues/2004/04.01.30/news2.html>.

or religious preferences of a faith-based provider.⁷¹

While some for-profits obtain contracts to perform outsourced welfare and poverty relief functions, a new field for socially conscious and politically active not-for-profits has opened to address the accountability concerns created by transfer of direct program administration to private organizations. In this climate, grassroots organizing by and on behalf of poor women has been vigorous.⁷² For example, Community Voices Heard is a particularly successful advocacy group in New York City. Organized by former welfare recipients, Community Voices Heard has devoted itself to increasing the power of poor women by raising members' consciousness and engaging in public actions to change the image of welfare recipients. In 2000, CVH, together with a community-based action organization, ACORN, led a successful effort to organize Work Experience Program participants who pressured the New York City Council to enact a WEP worker protection law.⁷³

C. Deepening Democracy at the Local Level

A third form of community-based welfare state enhancement targets local governance through the economic and political power of progressive coalitions. The "deepening democracy" strategy described by Professors Archon Fung and Erik O. Wright envisions broad coalitions of traditional opponents or competitors within a semi-autonomous institutional setting—a sector of the economy, a local government, or a school system.⁷⁴ The rationale for such coalition formation is to in-

71. See generally Daniel K. Storino, Note, *Resurrecting the Faith-Based Plan: Analyzing Government Funding for Religious Social Service Groups*, 79 NOTRE DAME L. REV. 389 (2003); see also, e.g., Andrea Boyle, *The Faith-Based Legal Landscape* (June 2003), available at <http://journalism.medill.northwestern.edu/docket/02-1315faith.html>.

72. A few of the many coalitions of grassroots organizations fighting poverty include Grassroots Organizing for Welfare Leadership, at <http://www.ctwo.org/growl/record.html>; Grassroots Organizing in Sisterhood, at <http://www.groots.org/>; and the Low Income Networking and Communications Project of the National Welfare Law Center, at <http://www.lincproject.org/default.asp>.

73. See Thomas J. Lueck, *Council Overrides Guiliani on 3 Bills, but He Vows Court Fight*, N.Y. TIMES, Mar. 20, 2000, at B11.

74. ARCHON FUNG & ERIK OLIN WRIGHT, DEEPENING DEMOCRACY: INSTITUTIONAL INNOVATIONS IN EMPOWERED PARTICIPATORY GOVERNANCE 20-22 (2003).

clude enough traditionally competing actors so that when agreement is reached, the agreement itself is an effective instrument of governance. An effective agreement would reorganize relationships among the participants to achieve gains in efficiency, productivity, and communal support. In other words, welfare. As such, each successful coalition replaces existing competitive relations with more mutually beneficial cooperative relations—thereby becoming a component of a reorganized welfare state.⁷⁵

Economist Annetta Bernhardt⁷⁶ provides an example of a sectoral coalition, the Wisconsin Regional Training Partnership (“WRTP”), that restructured the employment relationship for many low-wage and welfare-to-work employees. The WRTP created mutually cooperative arrangements among business competitors. The business competitors benefited from a reliable supply of skilled workers at a cost born equally among competitors for their services. One goal of such coalitions, according to advocates, is creation of a more inclusive democratic base, or “deepened democracy,” for political, economic, or administrative decision making. This new democratic base would include some previously excluded, relatively powerless members of the community who benefited from a redistribution of public or private welfare.⁷⁷ Redistributed benefits included better jobs and fringe benefits, responsive municipal government, environmental amenities, or better education for their children.

Yet, as Fung and Wright acknowledge, forming coalitions intended to extract private welfare from traditional adversaries or to achieve other forms of redistribution by agreement will be particularly problematic for the poor.⁷⁸ Of all the pre-

75. *Id.* at 24.

76. See generally ANNETTE BERNHARDT ET AL., *DIVERGENT PATHS: ECONOMIC MOBILITY IN THE NEW AMERICAN LABOR MARKET* (2001).

77. Fung and Wright discuss other local democracy experiments that have achieved at least partial success in a wide range of community settings and policy areas: decentralization in the Chicago school system, participatory budgeting in Porto Alegre, Brazil, village governance in India, and production of Habitat Conservation Plans under the Endangered Species Act. See generally FUNG & WRIGHT, *supra* note 74. See also Dorf & Sabel, *Drug Treatment Courts and Emergent Experimentalist Government*, 53 VAND. L. REV. 831 (2000).

78. FUNG & WRIGHT, *supra* note 74, at 282-85; see also JOEL F. HANDLER, *DOWN FROM BUREAUCRACY* 133 (1996). For another critique suggesting that the inherent inequalities among members of the coalition are likely to create serious problems of long term stability, see Jennifer Gordon, *New Governance Mod-*

conditions for success, Fung and Wright suggest that deliberative decision making and commitment will be the most problematic.⁷⁹ Power imbalances will be nearly unavoidable among participants who attempt to reorganize their relations with one another in order to achieve, in part, greater welfare for the poor.⁸⁰ Unless an imbalance of power can be checked by opportunistic alliances, conditional rewards for deliberation by a higher level of authority, or threats by such low-wage worker or consumer friendly groups as unions or local advocacy organizations, truly deliberative decision making may not develop.⁸¹ While these examples show that the local welfare state may be reformed to achieve progressive welfare state goals, these experiments will not be easy to replicate. Their reliance on unique circumstances, exceptional political coalitions, or high levels of social capital suggests that broader transformation will be difficult to achieve.

Further, factors that limit replication of successful coalitions among members of the middle and working classes, such as inadequate resources, leadership, and collective action problems, are even more problematic for the working poor and dependent poor who seek a stronger welfare state. Central to the evaluation of successful welfare-to-work experiments discussed earlier is the principle that higher initial costs may be associated with successful programs that enable the poor to sustain work, support a family, and fully participate as a citizen, including participation in political activism. As the national economy has weakened, programs like New Hope, which provide intensive support, have been cut back or ended. Without additional federal financial support and federal benchmark standards that reflect what has been learned from successful programs, costly but effective programs will be severely limited. Moreover, a politically weak minority such as the poor, who have overlapping political disadvantages of poverty and race, is unlikely to achieve changes in policies at the state or local level on its own. Further, recent

els, New Roles of Rights: Lessons from the Underground Economy, N.Y.U. REV. L. & SOC. CHANGE (forthcoming 2004). Similarly, Simon's penetrating appraisal of the Community Economic Development movement also concludes that the instability of low income communities poses a substantial threat to sustained, effective representation of their interests. See SIMON, *supra* note 55.

79. FUNG & WRIGHT, *supra* note 74, at 3-25.

80. *Id.*

81. *Id.*

governmental reforms that delegate new responsibilities to frontline workers to help welfare recipients with work and time limits only exacerbate the problems of "street-level" bureaucracy unless there is a change in the political power balance at the local level.⁸²

A model for co-opting the local welfare state that is more responsive to the problems of powerless groups has been advanced by Scott Cummings.⁸³ Cummings argues that the poor must form broad political coalitions comprised of natural allies committed to economic justice before engaging in peak bargaining with adversaries. Natural allies include grassroots organization, religious groups, and unions whose goals are closely related to the economic justice needs of the poor. Examples of successful collective action by such coalitions to achieve gains for poor communities include living wage campaigns,⁸⁴ low-wage labor cooperatives,⁸⁵ and, importantly, utilization of publicly subsidized local development.⁸⁶ Cummings also cites examples of sectoral economic development similar to WRTP, but with an important difference from Fung and Wright's proposal, namely successful community-based organizing that preceded negotiation and enabled representatives of poor communities to bring considerable pressure to bear on reluctant resource holders subject to public mandates.⁸⁷

Cummings' "new model" community economic development offers substantial advantages for the poor over the traditional model. The new model CED includes the poor, but it does so by recognizing that their inclusion is necessarily a political act. The poor will be served through redistribution requiring a shift in power. Second, Cummings argues that the new model CED will resist market trends.⁸⁸ It would main-

82. See generally MICHAEL LIPSKY, *STREET LEVEL BUREAUCRACY* (1983) (documenting effective control of the implementation of policies by frontline workers); see also HANDLER, *supra* note 78, at 133-68 (describing rare instances of empowerment of dependent persons who must rely on politicians, employers, or administrators for access to benefits).

83. Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399 (2001) [hereinafter Cummings, *Progressive Politics*].

84. *Id.* at 466-67.

85. *Id.* at 472; see also Cummings, *Developing Cooperatives*, *supra* note 56.

86. See Cummings, *Progressive Politics*, *supra* note 83, at 480-83.

87. *Id.* at 487-91.

88. *Id.*

tain inclusion of the poor even when the market would create insurmountable barriers to their participation in the labor market or entrepreneurship.

Two important aspects of all three strategies—market power, privatization, and deepening democracy—create particular challenges for advocates for the poorest community members. First, how should the goals of programs for the poorest be defined? Cummings has raised one of the most serious concerns about some types of local economic development advocacy, the tendency to adopt narrow market strategies for small geographically defined poverty communities. Projects that depend solely upon resources available within an impoverished neighborhood ignore the fundamental structural barriers to economic equality and inevitably fail to help the poorest. In addition to their poverty, many members of these communities experience more barriers both to employment and to participation in political action. Barriers include lack of education, health problems, family instability, and domestic violence. Dependence upon social networks that are not easily adapted to employment at will is customary in the low-wage labor market, assuming a larger, more participatory community role.

Second, local state projects typically require an initial investment of resources necessary for bargaining with coalition partners, providers, or public authorities. While there are examples of successful empowerment strategies for the poor that have required little initial financial resource investment, they have depended upon unique conditions creating interdependence of powerful and powerless partners or the presence of more powerful allies (e.g., unions on behalf of workers, progressive advocacy organizations on behalf of low-wage workers or care workers).⁸⁹ Common sense seems to suggest that the poorest will be at a severe disadvantage in negotiations for improved welfare institutions.

In sum, advocates for local state strategies for enhancing the welfare of the poor must focus on increasing the capacity of members of the poorest communities for political action as well as self-help. Further, community advocates seeking political strategies must find means for asset creation or conversion by turning physical, cultural, and social capital of the

89. HANDLER, *supra* note 78.

inner city and other poor communities into working capital.⁹⁰

IV. INTERROGATING LOCAL WELFARE STRATEGIES

Strengthening the capacity of local institutions for inclusion and for welfare can help poor men and women increase their “maneuverability” by redirecting resources to training, jobs, day care, housing, education, and services that increase their capability to meet their own needs and their responsibilities for care work. These needs are not met by the present labor market or by the downsized national welfare state. The small but growing number of community-based projects that have successfully addressed some of the welfare needs of the poorest individuals may hold tentative lessons for the next generation of activists and organizers attempting to grow the local welfare state.

A. Lesson One: The Nature of Advocacy Is Important.

Scott Cummings argues that basing community economic development on the market potential in a particular neighborhood limits effectiveness. This is true because leverage is restricted to a particular market, and because poor communities acting alone rarely have the political clout to play what has been called the “inside game” of urban politics. As part of the “inside game,” major resources and opportunities are allocated among the dominant power holders. The economic disadvantage of marginal and minority members of a community is a political problem, not an economic problem. Therefore, the response to economic disadvantage experienced in poor neighborhoods must be to coordinate political reform that emphasizes structural change rather than meeting the needs of specific urban neighborhoods.⁹¹ Cummings proposes a new model for community development advocacy for the poor and other marginal groups that differs from traditional market oriented community development in three

90. Some scholars in writing about the culture of poverty and the underclass have contributed to the perception that the poor have few assets or capabilities that might make them successful coalition partners in the politics of a more progressive local welfare state. *See, e.g.,* WILSON, *supra* note 51. Thus, in addition to countering the “myth and ceremony” of moral politics on the right, advocates for the poor must also reexamine the perceptions of poor communities held by “experts” on poverty.

91. Cummings, *Progressive Politics*, *supra* note 83, at 447.

ways: (1) the goal is broadly based economic justice, (2) advocates seek coalition with other community-based actors such as clergy and unions, and (3) the movement need not be spatially bounded but rather seeks sectoral, regional, national, or even transnational coalitions.⁹²

Cummings identifies examples of successful coalitions, including living wage campaigns such as the alliance of Boston grassroots advocates led by ACORN, the AFL-CIO, and Greater Boston Legal Services,⁹³ and community development coalitions such as the Figueroa Corridor Coalition for Economic Justice in Los Angeles, a group of community organizations, unions, and residents that won a "community benefits plan" that included parks, local hiring, and an affordable housing set-aside from developers of a billion-dollar sports and entertainment complex.⁹⁴

But critics have rightly questioned the sustainability of such coalitions. The poorest members of communities typically lack resources to initiate or sustain political action and many may lack even the capacity to participate effectively as members. Fortunately, effective collective action is not determined by initial levels of income or social capital alone. The Workplace Project⁹⁵ illustrates the power of poor, dependent, and *undocumented* laborers aided by an inspired organizer. This organizer tapped the workers' own potential and drew in unlikely allies on the basis of their economic self-interest. But at least initially, welfare recipients seldom have the right kind of social capital for such a movement—indeed, they are dependent upon welfare not only because they are economically poor, but also because they lack social capital that many other poor families can rely upon.⁹⁶ Plenty of grass-roots poverty organizations exist, but they provide mutual aid rather than market power, and many of those depend on external funding and organization. Again, Make the Road by Walking provides a rare example of a grassroots movement that was successful at the "outside game"—i.e. in a re-

92. *Id.* at 458-64.

93. *Id.* at 470.

94. *Id.* at 480.

95. See *supra* note 59 and accompanying text.

96. Julia R. Henly, *Informal Support Networks and the Maintenance of Low-Wage Jobs*, in *LABORING BELOW THE LINE*, *supra* note 50, at 179; see also WILSON, *supra* note 51.

gional labor market.

These criticisms lead to a second lesson.

B. Lesson Two: Assets Are Needed to Build Alliances and to Bargain with Opponents.

Advocates can help develop at least three types of assets needed to fulfill the promise of community-based organizing for increased public and private welfare in poor communities: cultural, labor, and economic assets.

First, the *cultural assets* of poor neighborhoods often include strong religious institutions,⁹⁷ effective networks supporting family survival,⁹⁸ an ethic of care in single-parent and extended families,⁹⁹ and values supporting work and mobility.¹⁰⁰ Many poverty scholars have been quick to dismiss the experience of individuals in urban neighborhoods as part of the problem of poverty and recommend changing such cultures by transforming neighborhood institutions and altering the opportunity structure.¹⁰¹ Yet, such neighborhoods not only shape and sustain values that should be respected and fostered, but they provide considerable social capital that may, with leadership and experience, be turned to organizing and activism. The lessons learned from grassroots activism have often centered on the importance of developing leadership, and in turn drawing out the potential of the considerable social capital that resides in poor communities.¹⁰²

It is no surprise that many organizations founded by former welfare recipients and poor persons place consciousness raising and leadership development high on their

97. See HAROLD MACDOUGALL, *BLACK BALTIMORE: A NEW THEORY OF COMMUNITY* (1993); Mary Pattillo-McCoy, *Church Culture as a Strategy of Action in a Black Community*, 63 AM. SOC. REV. 767 (1998).

98. See CAROL B. STACK, *ALL OUR KIN: STRATEGIES FOR SURVIVAL IN A BLACK COMMUNITY* (1974); *COPING WITH POVERTY: THE SOCIAL CONTEXTS OF NEIGHBORHOOD, WORK AND FAMILY IN THE AFRICAN-AMERICAN COMMUNITY* (Sheldon Danzinger & Ann Chih Lin eds., 2000).

99. See JOHN GILLIOM, *OVERSEERS OF THE POOR: SURVEILLANCE, RESISTANCE, AND THE LIMITS OF PRIVACY* (2001); STACK, *supra* note 98.

100. See KATHERINE S. NEWMAN, *NO SHAME IN MY GAME, THE WORKING POOR IN THE INNER CITY* 186 (1999).

101. See *generally* WILSON, *supra* note 51.

102. See SAUL D. ALINSKY, *REVEILLE FOR RADICALS* 64 (1989); HARRY BOYTE, *BACKYARD REVOLUTION: UNDERSTANDING THE NEW CITIZEN MOVEMENT* 44 (1980).

agenda.¹⁰³ Their emphasis not only presumes that the poor have cultural resources that are valuable and can be mobilized to support activism. The organizations also often assume that the poor should lead their own movements. Further, they assume that participation and leadership must be learned, and that opportunities to learn will be particularly valuable for persons who have been marginalized and excluded.¹⁰⁴ This learning process is especially important for leaders of poor communities who must contend with better resourced and more experienced allies as well as opponents in building the kind of coalitions described by Cummings.

Second, even the poorest communities have considerable *labor assets*. Worker cooperatives have been among the most successful enterprises among the poor and underemployed workers in poverty communities.¹⁰⁵ While worker co-ops ultimately aim to provide goods or services for the market, poor mothers, as market workers or care workers, often require supporting services themselves. Services critical to successful employment and care work may take the form of training, flexible child care, and, as New Hope demonstrated, counseling. For members of poor communities, individual assistance and support, institutional change and community advocacy, go hand in hand. Such services can be provided through mutual support organizations created and staffed by community members, and are elements of the model observable in examples discussed earlier such as Community Voices Heard and The Workplace Project, organizations staffed by members of the community served.¹⁰⁶

The special requirements of the working poor create special resource problems for worker cooperatives that serve them because of the costs of maintaining services needed to facilitate and support working single parents, workers requiring additional training, or workers who have special medical

103. For example, Welfare Rights Initiative, Community Voices Heard, National Congress of Neighborhood Women, and Grassroots Organizations Operating Together in Sisterhood all stress the importance of leadership development and consciousness-raising.

104. Such assumptions are supported by Lucie White's research on personal transformations that have occurred within Headstart. See White, *supra* note 51.

105. See Cummings, *Developing Cooperatives*, *supra* note 56; see also *supra* note 82 and accompanying text.

106. See *supra* Part III.A-B.

needs. Access to professional services is still more problematic because of its expense. Thus, development of the labor assets of individuals in the poorest communities may require strategies that make use of the devolution of welfare programs and funding for public/private partnerships with not-for-profits which are based in poor needy communities.

The dependence of cultural asset and labor asset development on external financial resources underscores a third kind of asset formation, *physical and financial resource development*. Poor inner city communities have employed community economic development corporations for development housing and businesses.¹⁰⁷ Likewise, development of community-based financial institutions is perceived as having particular value as an economic and political empowerment strategy.¹⁰⁸

The federal government can help provide resources for poor communities, of course. The government's role need not involve massive redistribution, but rather setting benchmarks for the use of resources and entitlements provided to businesses and employers, banks, and local governments. And this leads to a third lesson.

C. Lesson Three: Rights May Still Be the Key.

The Workplace Project's successful advocacy for a tough minimum wage law covering *illegal* immigrant day laborers in New York¹⁰⁹ suggests that new rights yielded two important resources. First, the law set an enforceable standard for employment negotiations between immigrant workers and employers. Equally important, new rights helped to build the capacity of the immigrants for further action by strengthening their self-perceptions and expectations of inclusion within the community. Both effects were critical to the future of the Project and its advocacy.

The present ideological climate favors experimentation with local replacement of national welfare policies, especially

107. See Michael H. Schill, *Assessing the Role of Community Development Corporations in Inner City Economic Development*, 22 N.Y.U. REV. L. & SOC. CHANGE 173 (1997).

108. Anthony D. Taibi, *Banking, Finance, and Community Economic Empowerment: Structural Economic Theory, Procedural Civil Rights, and Substantive Racial Justice*, 107 HARV. L. REV. 1463 (1994).

109. See *supra* notes 62-65 and accompanying text.

when driven by the initiative of private actors. The key structural characteristic of the setting in which the experiment can succeed in redistributing resources for welfare is devolution—together the actors must be able to exercise real power. Fung and Wright note that an agreement among the parties will be effective and constitutive of their future relations only if backed by a higher authority, in most cases public authority, a condition they term “coordinated decentralization.”¹¹⁰ The higher authority must agree to respect and enforce the decision reached through deliberation among local actors. It follows that agreements to enhance the local welfare state cannot be voluntary, but they must be binding and enforceable—i.e. backed in some way by governmental authority.

Economic development often depends on a variety of public subsidies, such as low cost land, low cost loans, tax breaks, and public grants.¹¹¹ Linkages in state or federal legislation can require expenditure of public funds in ways that benefit underserved, poor, and politically marginal communities. By their very nature, such linkages create a space for dealings between poor communities, developers, and local governments about exploitation, taking, or transformation of community resources. Such dealings are often initially not deliberative but confrontational in order to place satisfaction of the legislative requirement for linkage on the public agenda. Thus, to gain resources, a poor community must often mobilize first and leverage its initial investment in consciousness raising, leadership training, and coalition building through political action.

Coalitions of community-based advocates have been successful in exerting pressure for inclusion of affordable housing, local hiring requirements, and other community welfare benefits. A particularly fruitful source of local leverage arises under the federal Housing and Urban Development Act that requires public housing authorities and other HUD recipients to provide training and employment to low and very low-income persons. These requirements have been strengthened

110. FUNG & WRIGHT, *supra* note 74.

111. *Id.* at 483-87; *see also, e.g.*, The Housing and Urban Development Act of 1968, 12 U.S.C. § 1701(u) (2001). Cummings notes that there are many federal programs that similarly link community development funds to redistribution. *See Cummings, Progressive Politics, supra* note 83, at 484 n.415.

in recent years notwithstanding the shrinking safety net for welfare recipients and low-income workers.¹¹²

Advocates for community welfare development and the local welfare state know that governments must still play an important role. While the energy and vision for contemporary activism is local, rights and redistribution are essential for the success of efforts to extend the local welfare state to address poverty. We can now understand better why public resources remain important in spite of the barriers to obtaining them. Successful coalition building and advocacy for redistribution at the local level requires devolution of money earmarked for community building together with regulation to support wider, and ideally deliberative, participation in negotiations for welfare enhancing development. Devolution can increase the likelihood that local governmental interventions will support development of decent work, maneuverability, and community risk sharing.

V. CONCLUSION

Is there hope for poverty relief beyond welfare reform?

John Gilliom's sensitive interviews with welfare recipients offer profound insights into the effects of welfare administration on identity and capacity for employment and care work.¹¹³ He discovers in these interviews a counter discourse to welfare surveillance, a discourse of care and connection. He argues that the existence of the discourse is the first step toward building a new political community.¹¹⁴ By a new political community he means a community at the national level encompassing all those who want the welfare state to expand rather than narrow their autonomy and to strengthen indigenous visions of well-being and security rather than the symbolic needs of a national political community.

We need a vision for community advocacy. Welfare rights ascended when the poor were viewed as citizens and declined as dependency was characterized as a disease and the needy poor were stigmatized as incapable of full social citizenship.

One such conception is the risk sharing, community-

112. Cummings, *Progressive Politics*, *supra* note 83, at 483-85.

113. GILLIOM, *supra* note 99.

114. *Id.* at 134-36.

based vision embraced by progressives during the New Deal. This vision is alive today, and it is reflected in the continuing success of advocacy for rights enabling community participation in local development. Communitarian values underlie the EITC as well as devolution of policy making to local deliberation (including public participation requirements; expanded use of nonprofit providers, and local priority setting for welfare).

Further, governmental mandates can target the poor in ways that are consistent with the dominant market ideology: poor families displaced by development should receive compensating benefits as a form of cost internalization; services and facilities provided for the poor should include flexible benefits to make ending poverty a sustainable goal—through adequate training, living wage employment, and supporting services; and work should pay.

As Jennifer Gordon has reminded us, standard setting provides a framework for inclusion and for deliberation about community level welfare state policymaking. Rights can strengthen the capacity of marginalized groups for self-help by legitimating their sense of themselves as empowered citizens.

There are allies in this struggle. Many states have tried to use welfare reform to better their programs, and they have not left recipients cut from TANF wholly unsupported. The reality of welfare reform is that there has been a transfer of fiscal burdens but not control of its core political features such as employment. The net fiscal burden and false promise of local control makes local governments potential allies in resisting welfare reform as presently structured. Of course, many community activists—including religious organizations and labor unions—remain engaged in welfare advocacy for the long run.

Our inquiry brings us back to our starting point: the poor need a national movement for welfare rights and for redistribution. There is new hope for such a movement. The promise of deploying the local welfare state on behalf of the poor offers guidance for politically feasible advocacy. Washington consensus on devolution and privatization can be made to work for the poor by making available the right kind of resources and power to facilitate local governance that supports inclusive community development.